

1 **APPEARANCES:**

2
3 **For the Government:**

4 **AMANDA J. KLOPF, former AUSA**
5 **U.S. Attorney's Office**
6 **719 Church Street**
7 **Suite 3300**
8 **Nashville, TN 37203**
9 **(615) 736-5151**
10 **E-mail: USATNM.ECFUnassigned@usa.doj.gov**

11 **JOHN P. TADDEI**
12 **U.S. Department of Justice**
13 **Public Integrity Section**
14 **1301 New York Ave. NW**
15 **Suite 10th Floor**
16 **Washington, D.C. 20530**
17 **(202) 514-1412**
18 **E-mail: john.taddei@usdoj.gov**

19 **For the Defendant:**

20 **WILLIAM DAVID BRIDGERS**
21 **Holland & Knight**
22 **511 Union Street**
23 **Suite 2700**
24 **Nashville, TN 37219**
25 **(615) 850-8874**
26 **E-mail: david.bridgers@hklaw.com**

27 **BENJAMIN M. ROSE**
28 **RoseFirm, PLLC**
29 **P.O. Box 1108**
30 **Brentwood, TN 37024**
31 **(615) 942-8295**
32 **E-mail: ben@rosefirm.com**

33 **L. WELLS TROMPETER**
34 **Holland & Knight LLP**
35 **511 Union Street**
36 **Suite 2700**
37 **Nashville, TN 37219**
38 **(615) 850-8759**
39 **E-mail: wells.trompeter@hklaw.com**

* * *

The above-styled cause came on to be heard at 4:46 p.m. on March 8, 2022, before the Honorable Eli J. Richardson, District Judge, when the following proceedings were had, to-wit:

THE COURT: We are here this afternoon in the matter of *United States v. Robin Smith*. The case number is 3:22-cr-78. We're here to consider a petition to enter a plea of guilty pursuant to a plea agreement between the defendant, Ms. Smith, and the government.

If counsel could make their appearances, please.

MS. KLOPF: Good afternoon, Your Honor. Amanda Klopff on behalf of the United States, and present with my colleague, John Taddei. He is a trial attorney from the public integrity network.

THE COURT: All right. Very --

MR. TADDEI: Pubic Integrity office.

MS. KLOPF: I'm sorry. Public Integrity office.

THE COURT: Public Integrity Section. Yep.

All right. Good afternoon, counsel.

MR. BRIDGERS: Good afternoon, Your Honor. David Bridgers on behalf of Robin Smith. I'm joined by Wells Trompeter, also from my firm, and Ben Rose.

THE COURT: All right. Good afternoon, counsel.

1 Good afternoon, Mr. Bridgers.

2 Mr. Bridgers, if Ms. Smith has not yet executed
3 the plea petition and plea agreement, she may do so at this
4 time.

5 **MR. BRIDGERS:** She will do so.

6 (Respite.)

7 **THE COURT:** All right. If we look at the plea
8 agreement, it appears to have the required signatures. And
9 the plea petition, which is our shorthand term for the
10 petition to enter a plea of guilty, appears to have the
11 required signatures as well, so we're prepared to proceed.

12 I did have a couple of preliminary questions for
13 the attorneys. Ms. Klopf, Mr. Bridgers, one thing I noted
14 in the government's statement of the elements, it looks like
15 the government has been careful to make sure that the first
16 element is consistent with the U.S. Supreme Court decision
17 from 2010, *Skilling v. United States*. I think that's why it
18 was written that way.

19 Are you satisfied, Mr. Bridgers, that the
20 statement of that element, as properly limited, based on the
21 *Skilling* decision, is accurate?

22 **MR. BRIDGERS:** Yes, Your Honor.

23 **THE COURT:** Okay. All right. Very well. I
24 assume that's why you wrote it that way.

25 Fair to say, Ms. Klopf?

1 **MS. KLOPF:** Yes, Your Honor.

2 **THE COURT:** All right. Well, that's important to
3 do that, and we want to acknowledge that the statement of
4 the elements incorporates the holding in *Skilling*.

5 The second thing I did want to ask counsel was
6 this: The extent to which the part of the plea agreement
7 that would be found beginning at page 13, any reason not to
8 discuss that?

9 **MR. BRIDGERS:** Your Honor, I'm sorry. I didn't
10 catch your question. Any reason --

11 **THE COURT:** Any reason not to discuss the part of
12 the plea agreement? You know how we discuss some parts of
13 the plea agreement and others, we don't necessarily at a
14 plea hearing? Page 13.

15 **MR. BRIDGERS:** Okay. Yeah.

16 **THE COURT:** Any reason not to?

17 **MS. KLOPF:** No, Your Honor.

18 **THE COURT:** Okay.

19 **MS. KLOPF:** Not from the perspective of the
20 United States.

21 **MR. BRIDGERS:** And not from Ms. Smith's
22 perspective.

23 **THE COURT:** All right. Very well.

24 So, Ms. Smith, as the Judge assigned to this
25 case, it is my duty to determine whether to accept your

1 request to plead guilty in this case. And in order to
2 accept that request, I need to determine that you are
3 offering to plead guilty knowingly, voluntarily, and
4 intelligently. In order to do that, I need to ask you
5 questions about a variety of topics.

6 And many of the topics, I suspect won't be new to
7 you. You'll be familiar with them from studying for your
8 own case and from discussions with your attorneys, but some
9 of the things, I need to take from the beginning anyway as
10 if it was new to you.

11 It's important for you to realize that your
12 answers will be given under oath, which makes it especially
13 important for you to answer the questions to your best
14 truthful knowledge and recollection, because if it was later
15 alleged that you had knowingly given me a false answer, that
16 could be grounds for an additional charge of false statement
17 or perjury.

18 Does that make sense?

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** All right. You also have the right
21 to remain silent, and this, of course, is an important right
22 for you to have, and that means many different things.
23 Among other things, it means that you could decline to plead
24 guilty today. You could decline to answer any questions
25 from me today. Instead, you could, if you wanted to, even

1 though we've all gathered here, you could call off the plea
2 hearing, stand on your right to remain silent, and continue
3 under your current plea of not guilty and head towards
4 trial. You could still do that.

5 Do you understand that?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** All right. Knowing these things, do
8 you still wish to offer a plea of guilty here today?

9 **THE DEFENDANT:** I do, Your Honor.

10 **THE COURT:** All right. If we could have
11 Ms. Smith placed under oath, please.

12 (The defendant was sworn.)

13 **THE COURT:** All right. Ms. Smith, if you could
14 please tell us your full name.

15 **THE DEFENDANT:** Robin Danette Tucker Smith.

16 **THE COURT:** All right. And how old are you?

17 **THE DEFENDANT:** I am 58 years of age.

18 **THE COURT:** And how far did you go in school?

19 **THE DEFENDANT:** I was a Bachelor of Science in
20 Nursing, and I did extended distance learning in 2008 for a
21 certified -- certification in project management.

22 **THE COURT:** And you are previously a member of
23 the Tennessee General Assembly; is that correct?

24 **THE DEFENDANT:** That is correct, Your Honor.

25 **THE COURT:** Fair to say in that capacity, you've

1 had the occasion to review really countless documents that
2 are of a legal nature?

3 **THE DEFENDANT:** That is correct, Your Honor.

4 **THE COURT:** All right. Thank you.

5 I'm going to begin by going over the charge
6 against you in this case. And the charge is contained in a
7 document called an information, and the information is a
8 document where you have waived the right to be charged by a
9 Grand Jury indictment. The charge is brought with your
10 consent by the United States Attorney.

11 And in this case, the information charges you
12 with just a single count, which is what is known in legal
13 circles as Honest Services Wire Fraud, which is to say fraud
14 by wire where the fraud relates to the public's right to
15 receive honest services.

16 The allegation is that the conduct alleged in the
17 information is in violation of Title 18, United States Code,
18 Section 1343, which is the general wire fraud statute, and
19 also Title 18, United States Code, Section 1346, which
20 contains Congress's essentially clarification that a scheme
21 to defraud includes a scheme to defraud basically the public
22 out of their right to honest services.

23 Have you been able to receive the information and
24 read it line for line and word for word?

25 **THE DEFENDANT:** I have, Your Honor.

1 **THE COURT:** Have you been able to discuss it to
2 your full satisfaction with your attorneys?

3 **THE DEFENDANT:** Yes, Your Honor, I have.

4 **THE COURT:** All right. Any questions about this
5 document?

6 **THE DEFENDANT:** No, sir. No, Your Honor.

7 **THE COURT:** All right. I wanted to note that as
8 you would have seen in reading it, that towards the end,
9 there's something known as a forfeiture allegation. And the
10 forfeiture allegation is a place in the indictment where the
11 government claims the right to take away your interest in
12 certain property that is connected in legally sufficient
13 ways with the crime that's been charged.

14 So in this forfeiture allegation, the government
15 notes that it is claiming the right to take away your
16 interest by forfeiture to property associated with this
17 alleged crime.

18 Any questions about the forfeiture allegation?

19 **THE DEFENDANT:** No, Your Honor.

20 **THE COURT:** All right. Then let's talk next
21 about the elements of the offense and the maximum possible
22 penalties.

23 An element of an offense is simply something that
24 the government must prove beyond a reasonable doubt for you
25 to be found guilty of the offense.

1 In this case, we have an alleged crime that has
2 four different elements. They are as follows: First, that
3 you knowingly devised or participated in a scheme to defraud
4 the public out of its right to the honest services of you as
5 the public official through bribery or kickbacks. It's not
6 a crime unless the offense involved bribery or the receipt
7 or giving of kickbacks.

8 The second element is that you did so knowingly
9 and with the intent to defraud.

10 Third, the scheme or artifice to defraud must
11 have involved a material misrepresentation or a false
12 statement or a false pretense or concealment of a material
13 fact.

14 And finally, the government would have to show
15 that in advancing or furthering or carrying out the scheme
16 to defraud, you, in some way, transmitted or caused to be
17 transmitted any writing, signal, or sound by means of a wire
18 communication in interstate or foreign commerce, typically
19 meaning that the writing signal or sound crossed state
20 lines.

21 Any questions about the elements of this charged
22 offense?

23 **THE DEFENDANT:** No, Your Honor.

24 **THE COURT:** All right. Let's talk about the
25 maximum possible penalties. There is a maximum prison term

1 of 20 years with no minimum mandatory sentence. There is a
2 special assessment of \$100, which means simply an order to
3 pay \$100 into court. There is a maximum fine of \$250,000,
4 and there is a maximum term of supervised release of three
5 years.

6 Also, I had mentioned the possibility of
7 forfeiture as a result of a conviction for this offense.

8 Any questions about the maximum possible
9 penalties?

10 **THE DEFENDANT:** No, Your Honor.

11 **THE COURT:** All right. Have you been able to
12 discuss the elements of the offense and the maximum possible
13 penalties with your attorneys to your full satisfaction?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** Have you been able to discuss with
16 them any possible defenses you might have to this charge?

17 **THE DEFENDANT:** I have, Your Honor.

18 **THE COURT:** All right. Are you satisfied with
19 counsel's representation of you?

20 **THE DEFENDANT:** I am, Your Honor.

21 **THE COURT:** Any complaints at all about the
22 representation?

23 **THE DEFENDANT:** No, Your Honor.

24 **THE COURT:** All right. Let's talk a little bit
25 more about supervised release. I had mentioned the maximum

1 term of supervised release. A term of supervised release is
2 a period of time during which your activities, after release
3 from any term of incarceration, would be supervised, to some
4 extent, by the United States Probation Office.

5 So the way it works is that if you are given a
6 term of supervised release, you would need to comply with
7 various conditions of supervised release for that period,
8 and if you were to violate a condition of supervised
9 release, you could be subject to additional sanctions,
10 including an additional term of incarceration. And so if
11 you do get a term of supervised release, it would be
12 important to comply with all conditions of supervised
13 release.

14 We don't know at this juncture what terms of
15 supervised release might look like. If there was to be a
16 term, that would be something to be determined by me at
17 sentencing.

18 Any questions about supervised release?

19 **THE DEFENDANT:** No, Your Honor.

20 **THE COURT:** All right. I had mentioned the
21 maximum fine. The Court would impose a fine in at least
22 some amount unless it was determined you're financially
23 unable to pay a fine, in which case the Court would not
24 impose a fine.

25 If anyone has lost any money or property as a

1 result of your conduct, you can or perhaps would be required
2 to be ordered to pay restitution.

3 I had also mentioned the possibility, of course,
4 of forfeiture. It's important to note that it is possible
5 that forfeiture can be ordered in addition to restitution,
6 and we may talk a little bit more about how those two work
7 together later.

8 Any questions so far?

9 **THE DEFENDANT:** No, Your Honor.

10 **THE COURT:** All right. Couple of final
11 consequences that you need to know of conviction by guilty
12 plea. If you are convicted of a felony offense, meaning an
13 offense punishable by more than one year in prison, in
14 Tennessee, that typically would deprive you of the right to
15 vote and the right to possess a firearm unless and until
16 such rights would be restored.

17 Any questions about that?

18 **THE DEFENDANT:** No, Your Honor.

19 **THE COURT:** All right. Let's talk about the
20 sentencing process we would follow if I accept your plea of
21 guilty here today. We would schedule a sentencing hearing,
22 and prior to the sentencing hearing, the United States
23 Probation Office would prepare something called a
24 Presentence Investigation Report, known as a PSR for short.

25 The PSR would contain information about you as an

1 individual, about any prior criminal history you have, if
2 you happen to have any. It would also contain information
3 about you -- in addition, information about you as an
4 individual. It would have information about the offense
5 conduct in which you engaged.

6 So all this would be in the PSR.

7 Additionally, the PSR would contain the probation
8 officer's opinion about what the guideline ranges are in
9 your case under the United States sentencing guidelines.

10 Have you been able to speak with your attorneys
11 about the sentencing guidelines?

12 **THE DEFENDANT:** Yes, Your Honor.

13 **THE COURT:** Good. Then I can summarize just
14 briefly how it works. Sentencing guidelines are used to
15 calculate three different ranges for each defendant's case.
16 One is a range for a length of a term of supervised release,
17 one is a range for an amount of a fine, and the range for an
18 amount of a fine is based on your offense level which is
19 based on the facts and circumstances surrounding your
20 offense.

21 And then the third guideline range is a range for
22 a length of a term of incarceration. That's based on your
23 offense level, and it's also based in part on your criminal
24 history category, which is based on any prior criminal
25 convictions you may have.

1 So the way the process works is the probation
2 officer, in the PSR, gives me her opinion about what the
3 guideline ranges are in your case.

4 If you disagree with that opinion, you're allowed
5 to object to that opinion before sentencing and at
6 sentencing. The government can do likewise. In making an
7 objection to the probation officer's opinion and asserting
8 what you believe the proper guideline range is, you would be
9 permitted at the sentencing hearing to present evidence and
10 argument on that topic. The government could do likewise.

11 Now, if Mr. Bridgers had given you an estimate
12 about what he thinks your guideline range would be, that
13 would be perfectly appropriate, but you do need to know that
14 that's his opinion only and that the final decision is for
15 me and me alone.

16 Are you with me so far?

17 **THE DEFENDANT:** Yes, Your Honor, I am.

18 **THE COURT:** Very well. All right. The guideline
19 ranges, though, are not mandatory for the Court. The Court
20 typically could sentence above, below, or within the
21 guidelines range. And to determine what sentence to impose,
22 the Court needs to consider not only the guideline range,
23 but also various other factors and circumstances. And at a
24 sentencing hearing, you and the government both could
25 present evidence and argument about the other relevant

1 circumstances for what your sentence should be.

2 Also, if you wish to address me without
3 cross-examination before sentencing, you would be permitted,
4 at the sentencing hearing, to do so.

5 Now, if Mr. Bridgers had given you his estimate
6 about what a sentence for you could look like, that, again,
7 would be perfectly appropriate, but you do need to know,
8 again, that the final decision is mine and mine alone. No
9 one here knows what the sentence would be because we have to
10 go through the process first.

11 Does that make sense?

12 **THE DEFENDANT:** It does, Your Honor. Thank you.

13 **THE COURT:** Any questions at all about any of
14 that?

15 **THE DEFENDANT:** No questions, Your Honor.

16 **THE COURT:** All right. Now, I wanted to note
17 that if you did receive a sentence of incarceration, you
18 would need to serve all time imposed minus a maximum of
19 15 percent off as credit for good time served.

20 Does that make sense?

21 **THE DEFENDANT:** It does, Your Honor.

22 **THE COURT:** All right. You need to know also
23 that the grounds for withdrawing a guilty plea in federal
24 court are pretty limited, so you would not be able to
25 withdraw your guilty plea later just because you change your

1 mind. Let's say you decide some day that maybe you weren't
2 guilty after all or you don't like the sentence you got.
3 Those things alone would not be grounds for withdrawing a
4 plea of guilty.

5 Does that make sense?

6 **THE DEFENDANT:** I understand, Your Honor.

7 **THE COURT:** All right. Thank you.

8 All right. Mr. Bridgers, do I understand
9 correctly that Ms. Smith is not on parole, probation, or
10 supervised release from any offense in any court?

11 **MR. BRIDGERS:** You do understand that correctly,
12 Your Honor.

13 **THE COURT:** I thought so. Appreciate the
14 confirmation.

15 I want to then move to our next topic, which is
16 the rights that you would be giving up, Ms. Smith, if I was
17 to accept your plea of guilty here today.

18 And have you been able to speak with Mr. Bridgers
19 and other counsel as appropriate about your rights at trial
20 if you were to exercise your right to trial?

21 **THE DEFENDANT:** I have, Your Honor.

22 **THE COURT:** Good. Then I'll run through them
23 briefly here.

24 You have the right to continue in your current
25 plea of not guilty and to persist in that plea of guilty and

1 head towards a speedy and public trial before a jury of your
2 peers.

3 At this trial, you would be afforded the
4 presumption of innocence, meaning you could not be found
5 guilty of this charge unless and until the government proved
6 your guilt beyond a reasonable doubt by proving each of the
7 elements I mentioned beyond a reasonable doubt.

8 You have the right to be represented by counsel
9 at trial throughout the trial, and also on any appeal if
10 there was to be an appeal. And for any period of time in
11 which it turns out you cannot afford your own counsel, you
12 would be able to have court-appointed counsel paid for at
13 public expense.

14 At this trial, you would have the right to
15 confront and cross-examine government witnesses against you.
16 You would also have the right, if you wish, to present
17 evidence in your own defense. This includes the right to
18 testify on your own behalf. You have an absolute right to
19 do that. On the other hand, you have an absolute right not
20 to testify, because you have the right to remain silent and
21 not incriminate yourself unless and until you give up that
22 right.

23 Now, if you were to plead guilty here today,
24 though, you'd be waiving these rights because there would be
25 no trial to determine whether or not you're guilty.

1 Instead, you'd be found guilty just because of your guilty
2 plea, and we'd head towards sentencing and follow that
3 process that I had mentioned.

4 Does that make sense?

5 **THE DEFENDANT:** It does, Your Honor.

6 **THE COURT:** Any questions at all about your
7 rights?

8 **THE DEFENDANT:** No questions, Your Honor.

9 **THE COURT:** Have you been able to speak with them
10 really to your full satisfaction with Mr. Bridgers?

11 **THE DEFENDANT:** I have, Your Honor.

12 **THE COURT:** Okay. Now, we've talked about
13 several different things already. We've talked about the
14 nature of the charge and the elements of the offense. We've
15 talked about the maximum possible penalties. We've talked
16 about some other consequences or possible consequences of
17 conviction. And we've talked about the rights that you
18 would be giving up if I was to accept your plea of guilty
19 here today.

20 Having discussed these things, do you still wish
21 to offer a plea of guilty?

22 **THE DEFENDANT:** I do, Your Honor.

23 **THE COURT:** All right. And that's what your plea
24 petition, in fact, tells me. It says that you do wish to
25 plead guilty, and I'm reading from paragraph 12, and that

1 you do have a plea agreement with the government. That's
2 what paragraph 13 says.

3 Is that your understanding?

4 **THE DEFENDANT:** It is my understanding, Your
5 Honor.

6 **THE COURT:** All right. This plea petition that
7 you signed and this plea agreement that you signed, have you
8 read each of these line for line, word for word?

9 **THE DEFENDANT:** I have, Your Honor.

10 **THE COURT:** Have you been able to discuss them
11 with Mr. Bridgers to your full satisfaction?

12 **THE DEFENDANT:** Yes, Your Honor, I have.

13 **THE COURT:** Any questions about either of those
14 documents?

15 **THE DEFENDANT:** No questions, Your Honor.

16 **THE COURT:** All right. Then I don't need to
17 review everything, but there are some things that we need to
18 go over. And if you have a copy of it in front of you, I'd
19 direct your attention to page 11, paragraph 9. And it's a
20 part of the plea agreement that says sentencing guidelines
21 calculations.

22 Do you recall this language?

23 **THE DEFENDANT:** I do, Your Honor.

24 **THE COURT:** And there are a variety of figures in
25 there, and I wanted to ask you: Do you feel, based on

1 reading this and discussing it with Mr. Bridgers, that you
2 understand what those figures mean and where they came from?

3 **THE DEFENDANT:** Yes, Your Honor. We've discussed
4 those.

5 **THE COURT:** All right. And do you realize that
6 the parties are agreed on some parts of the guidelines
7 calculations, but they reserve the right to disagree with
8 each other about other parts of the guidelines calculations?

9 **THE DEFENDANT:** I understand, Your Honor.

10 **THE COURT:** All right. And do you understand
11 that ultimately, it's the Court that makes the final
12 decision about the guidelines calculations? Does that make
13 sense?

14 **THE DEFENDANT:** Yes, I understand, Your Honor.

15 **THE COURT:** All right. Now, we talked about the
16 way the Court has to calculate a guidelines range and take
17 it into account. Under certain circumstances, the guideline
18 range that otherwise applies could be lowered pursuant to
19 what is known as a downward departure. And the plea
20 agreement that you have contemplates the potential, but by
21 no means the certainty, of a downward departure under
22 certain circumstances.

23 Do you realize that it is a decision for the
24 Court and the Court alone whether ultimately to grant a
25 downward departure?

1 **THE DEFENDANT:** I do, Your Honor.

2 **THE COURT:** All right. Very well. Thank you.

3 Now, if we look at page 13, there is a section
4 there that talks about cooperation. Do you have any
5 questions about that section?

6 **THE DEFENDANT:** I have no questions, Your Honor.

7 **THE COURT:** All right. Would it be fair to say
8 that this language imposes certain obligations on you
9 towards the government, and also imposes on the government,
10 at least conditionally, certain obligations towards you? Do
11 you understand that?

12 **THE DEFENDANT:** That is my understanding, Your
13 Honor.

14 **THE COURT:** And do you feel like you understand
15 those obligations?

16 **THE DEFENDANT:** I do understand those, Your
17 Honor.

18 **THE COURT:** All right. And I wanted to direct
19 your attention to paragraph 17. Do you see where it notes
20 that the government would have the sole discretion to decide
21 whether to file a motion on your behalf ultimately under
22 United States sentencing guidelines, Section 5K1.1?

23 **THE DEFENDANT:** I've seen that and I agree, Your
24 Honor.

25 **THE COURT:** All right. And do you see in

1 paragraph 18 where it says that each party is free to
2 recommend whatever sentence it feels is appropriate? Do you
3 understand that?

4 **THE DEFENDANT:** I see and understand that, yes,
5 sir.

6 **THE COURT:** All right. Thank you.

7 Now, turning to the next page, forfeiture of
8 property, do you understand that the government intends,
9 under this language, to move for a consent order of
10 forfeiture, and that is an order with your consent for a
11 forfeiture in the form of a money judgment? Do you
12 understand that?

13 **THE DEFENDANT:** I understand that, Your Honor.

14 **THE COURT:** Now, I'm not seeing anything here,
15 Mr. Bridgers, that indicates what the amount of the
16 forfeiture money judgment would be. Is that to be
17 determined?

18 **MR. BRIDGERS:** That is to be determined, Your
19 Honor. You're correct. There is no number in there.

20 **THE COURT:** Do the parties believe that the
21 amount could be left open to the Court; in other words, that
22 Ms. Smith doesn't have to accept any figure the government
23 requests? Is that fair to say?

24 **MS. KLOPF:** That could happen, Your Honor. I'll
25 represent we will, later on down the road, reach an

1 agreed-upon number, but at this point, it could be left
2 open.

3 **THE COURT:** Thank you. And the reason I ask, the
4 language, "The United States will move for entry of a
5 consent order of forfeiture consisting of a money judgment."
6 And I figured that you probably didn't mean that to mean
7 that the United States is obligating Ms. Smith to consent to
8 an order with whatever figure that they have.

9 So I think it sounds like we're on the same page.
10 The United States intends to pursue a forfeiture. It's
11 going to seek a preliminary order of forfeiture and then a
12 final order of forfeiture. But everyone understands that
13 the amount of any forfeiture order, if any, is to be
14 determined. Fair to say?

15 **MS. KLOPF:** Yes, Your Honor.

16 **MR. BRIDGERS:** Fair to say from our side.

17 **THE COURT:** Okay. All right.

18 Now, there is also the possibility of restitution
19 to any victims of the offense, Ms. Smith, that we had
20 discussed. Paragraph 31 talks about sort of the interplay
21 between an order of forfeiture and a restitution order.

22 And as I read this language, it notes correctly
23 that you actually could be required to pay both forfeiture
24 and restitution even though someone could say, well, it
25 looks like it's for the same loss. It's a double recovery

1 or double punishment. Under the law, for reasons we need to
2 not get into, that is possible.

3 I read this language for the government to say
4 something like this: Look, if we recover money from you
5 under a forfeiture order, Ms. Smith, we'll make every effort
6 to pay it over to victims to satisfy the restitution order
7 and, you know, thereby lower your restitution order. But
8 we, as the government, can't guarantee that.

9 That's what that language is telling me. Is that
10 what it means to you?

11 **THE DEFENDANT:** I understand that, Your Honor.

12 **THE COURT:** Is that your take on that language,
13 Mr. Bridgers?

14 **MR. BRIDGERS:** That is our take on that language,
15 Your Honor.

16 **THE COURT:** All right. You, too, Ms. Klopff?

17 **MS. KLOPF:** Yes, Your Honor.

18 **THE COURT:** All right. Thank you.

19 All right. Final provision, the waiver of
20 appellate rights. Paragraph 37 has language in there that
21 seems to be written more for lawyers, I think, or perhaps
22 legislators, than for regular folks. And I tell defendants
23 this every time, and that it's perfectly appropriate:
24 Sometimes lawyers have to write it that way. But there's --
25 you know, it would be fair to say there's something -- some

1 language in there that's like jargon and legalese, not
2 inappropriate, but it can be hard to understand.

3 So I want to ask you: Having read this language
4 and discussed it with your attorneys, do you feel like you
5 understand what it is saying?

6 **THE DEFENDANT:** I do, Your Honor.

7 **THE COURT:** Okay. Good. Then I can just
8 summarize it briefly.

9 Here's the general idea: If someone's convicted
10 in federal court and then gets sentenced, they generally
11 have the right to challenge their conviction and challenge
12 their sentence.

13 And they can do it one of two ways: One is by an
14 appeal from this Court to a higher Court. This case would
15 be the U.S. Court of Appeals for the Sixth Circuit. And
16 your second option would be later on, to file certain kinds
17 of motions challenging a conviction or a sentence or both in
18 this court.

19 Experience shows, however, that as part of plea
20 bargains, sometimes defendants give up some of these rights.
21 This language is telling me that you're giving up a lot of
22 your rights to make these kinds of challenges -- not all of
23 your rights, but a lot of them, while preserving certain
24 rights to make a challenge to your conviction or your
25 sentence. That's what it's telling me.

1 Does that make sense to you?

2 **THE DEFENDANT:** It does, Your Honor.

3 **THE COURT:** All right. And, Mr. Bridgers, do you
4 believe that you've covered this language adequately with
5 Ms. Smith?

6 **MR. BRIDGERS:** Yes, we do, Your Honor.

7 **THE COURT:** Very well. All right.

8 We can set aside the plea agreement, and I'm
9 going to then ask about voluntariness. If you offer to
10 plead guilty, Ms. Smith, it should be your own personal
11 choice to do so. So I'm going to ask you: Has anyone put
12 any force or pressure or threats on you in an attempt to get
13 you to plead guilty?

14 **THE DEFENDANT:** None of the above.

15 **THE COURT:** All right. Other than what is in
16 your written plea agreement, has anything been promised to
17 you in return for pleading guilty?

18 **THE DEFENDANT:** No other promises, Your Honor.

19 **THE COURT:** All right. Have you had any drugs or
20 alcohol in the last 24 hours?

21 **THE DEFENDANT:** I have not, Your Honor.

22 **THE COURT:** Are you taking any prescription
23 medications?

24 **THE DEFENDANT:** I am taking for my reflux
25 medication.

1 **THE COURT:** Okay. Now, this medication, does it
2 have any side effects that impact your ability to think
3 clearly?

4 **THE DEFENDANT:** It does not, Your Honor.

5 **THE COURT:** All right. Have you ever been
6 treated for any mental health concerns?

7 **THE DEFENDANT:** I have not, Your Honor.

8 **THE COURT:** All right. Would you say your mind
9 is clear and you know exactly what you're doing in here
10 today?

11 **THE DEFENDANT:** I do, Your Honor.

12 **THE COURT:** And would you say that you are
13 offering to plead guilty voluntarily?

14 **THE DEFENDANT:** I am offering that voluntarily.

15 **THE COURT:** All right. Thank you.

16 Mr. Bridgers, Ms. Klopff, seems to me that we have
17 a detailed factual basis set forth in the plea agreement.
18 Are counsel amenable to waiving the reading as long as I
19 ascertain Ms. Smith having knowledge and agreeing with the
20 factual basis?

21 **MS. KLOPF:** Yes, Your Honor.

22 **THE COURT:** Does that work, Mr. Bridgers?

23 **MR. BRIDGERS:** Yes, Your Honor.

24 **THE COURT:** Okay. So in the plea agreement,
25 there is a factual basis that essentially provides facts

1 that are intended to satisfy me that you agree to -- agree
2 that the facts of this case do, in fact, show your guilt;
3 that, you know, it's not like you're pleading guilty just
4 because; or it's not like, well, maybe the government's
5 making it up, but I gotta plead guilty anyway. Factual
6 basis is where we establish that you agree that the -- there
7 are facts that would, in fact, show your guilt.

8 So I wanted to ask you: The part of the plea
9 agreement labeled "Factual Basis" which goes on for a number
10 of pages, have you read that language in full?

11 **THE DEFENDANT:** I have, Your Honor.

12 **THE COURT:** And would you say that you've been
13 able to ask everything that you desired of your attorneys
14 about this language?

15 **THE DEFENDANT:** I have been able to, yes, sir.

16 **THE COURT:** Okay. Would you agree with
17 everything that's in that language?

18 **THE DEFENDANT:** I do, Your Honor.

19 **THE COURT:** Okay. Now, if there's anything at
20 all in there that you don't agree with, that's fine. We
21 just need to talk about it. Anything at all in there in the
22 factual basis that you disagree with?

23 **THE DEFENDANT:** I accept the factual agreement as
24 provided, Your Honor.

25 **THE COURT:** Okay. With no reservations? Is that

1 fair to say?

2 **THE DEFENDANT:** No reservations, sir.

3 **THE COURT:** Okay. All right. Are you offering
4 to plead guilty because you are, in fact, guilty of the
5 crime of honest services wire fraud that is alleged in the
6 information?

7 **THE DEFENDANT:** Yes, Your Honor.

8 **THE COURT:** All right. Thank you.

9 So at this time, I want to ask counsel for each
10 side whether they are satisfied on each of the following
11 points: First, that Ms. Smith is competent to plead guilty,
12 also that she is willing to plead guilty voluntarily, that
13 her guilty plea is based on no agreements or promises other
14 than what is in her written plea agreement;

15 That her guilty plea is being made with a full
16 understanding of the nature and elements of the charge, the
17 maximum possible penalties, other consequences and possible
18 consequences of conviction, and her legal rights to contest
19 the charge at trial;

20 That she has knowingly and voluntarily waived her
21 legal rights to contest the charge at trial; that a factual
22 basis has been established sufficient to show her guilt on
23 that charge; and that the Court has complied with the
24 provisions of Federal Rule of Criminal Procedure 11 in
25 accepting the plea of guilty.

1 Are counsel satisfied on these points?
2 Ms. Klopff?

3 **MS. KLOPF:** Yes, Your Honor.

4 **THE COURT:** Thank you.

5 Mr. Bridgers?

6 **MR. BRIDGERS:** Yes, Your Honor.

7 **THE COURT:** All right. So, Ms. Smith, at this
8 time, I need to ask you, as to the crime charged in the
9 indictment, at this time, how do you plead: Not guilty or
10 guilty?

11 **THE DEFENDANT:** Guilty, Your Honor.

12 **THE COURT:** All right. The Court has observed
13 the appearance of the defendant, Ms. Smith, in court here
14 today, and based on the Court's observation of that and
15 based on the specific answers she has given to the Court's
16 questions, the Court makes the following findings: that the
17 defendant, Ms. Smith, is in full possession of her faculties
18 and is competent to plead guilty;

19 That she is not under the apparent influence of
20 drugs, alcohol, or prescription medications; that she
21 understands the nature and elements of the charge, the
22 maximum possible penalties, other consequences or possible
23 consequences of conviction, and her legal rights to contest
24 the charge at trial;

25 That she has knowingly and voluntarily waived her

1 legal rights to contest the charge at trial; that she is
2 aware of the terms of her plea agreement; that she has
3 offered to plead guilty knowingly, voluntarily, and
4 intelligently; and that there is a factual basis to support
5 the plea of guilt.

6 So for these reasons, the Court will accept the
7 plea of guilty. That plea is accepted, Ms. Smith is
8 adjudged guilty of the crime charged in the information.

9 And we, therefore, need to schedule a sentencing
10 hearing. Understanding that the government may have views
11 about when sentencing really is more -- most likely to be
12 appropriate, I will ask the government its view. Would
13 something in about four months be appropriate and then see
14 where things stand at that point, or do you think we should
15 set it out further to begin with?

16 **MS. KLOPF:** Your Honor, if possible, could we set
17 it out a little further?

18 **THE COURT:** Like September?

19 **MS. KLOPF:** September-October. Actually, I'm
20 sorry, Mr. Taddei has a trial in September. Could we set it
21 in October?

22 **THE COURT:** October? Mr. Bridgers, any
23 objection?

24 **MR. BRIDGERS:** No objection, Your Honor.

25 **THE COURT:** All right. Let's see what we can get

1 in October. And while we're working on that, I wanted to
2 ask the government its view about release pending
3 sentencing.

4 **MS. KLOPF:** Yes, Your Honor. We're not asking
5 for remand.

6 **THE COURT:** And would that be based on the
7 government's assessment that Ms. Smith does not have a
8 concerning criminal history, that this is not a crime of
9 violence, and that, of course, she's only recently been on
10 bond, but certainly no violations of pretrial release? Is
11 that's what's factored into the government's thinking?

12 **MS. KLOPF:** Yes, Your Honor. I think the
13 conditions that she's currently on are appropriate for her
14 to continue to remain on.

15 **THE COURT:** Okay. Very well. Thank you.

16 All right. How about, for sentencing, October
17 the 17th at 1:00 p.m.?

18 **MS. KLOPF:** That works, Your Honor.

19 **MR. BRIDGERS:** Works for the defense side.

20 **THE COURT:** All right. Very well. Then we will
21 get out an order setting this for sentencing October
22 the 17th at 1:00 p.m. If anyone feels the need to seek to
23 change that, by all means, don't hesitate to file a motion
24 or reach out to the courtroom deputy.

25 Ms. Smith, I do need to explain this to you.

1 Even for someone that hasn't, for however long they've been
2 on pretrial release, hasn't had any violations of conditions
3 of release, once they plead guilty, the calculus changes and
4 there is at least a possible presumption that the person
5 should be detained pending sentencing.

6 But the presumption can be overcome, and in cases
7 like this with the factors that I had reviewed with
8 Ms. Klopf, it's appropriate to allow you to remain on
9 release pending sentencing.

10 I would note, however, that it does remain just
11 vital to comply with all conditions of release because no
12 one wants to see you back in court before the scheduling --
13 the scheduled sentencing date based on an alleged violation
14 of conditions of pretrial release.

15 So that means always think before you act, and if
16 you ever -- you have a question about compliance with
17 conditions of pretrial release, pick up the phone and call
18 Mr. Bridgers and get clarification.

19 Can I count on you to do those things?

20 **THE DEFENDANT:** You may, Your Honor.

21 **THE COURT:** All right. Thank you. That being
22 the case, and given the factors I had mentioned and the
23 government's lack of objection, Ms. Smith, as is appropriate
24 under these circumstances, can remain on her current
25 conditions of release.

1 All right. Is there anything else we need to
2 cover at this time? Ms. Klopf?

3 MS. KLOPF: Not from the United States, Your
4 Honor.

5 THE COURT: Mr. Bridgers?

6 MR. BRIDGERS: Not from the defendant, Your
7 Honor.

8 THE COURT: All right. Thank you, counsel. We
9 stand in recess.

10 (WHEREUPON, the foregoing proceedings were
11 concluded at 5:28 p.m.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 REPORTER'S CERTIFICATE

2
3 I, Deborah K. Watson, Official Court Reporter for
4 the United States District Court for the Middle District of
5 Tennessee, with offices at Nashville, do hereby certify:

6 That I reported on the Stenograph machine the
7 proceedings held in open court on March 8, 2022, in the
8 matter of UNITED STATES OF AMERICA vs. ROBIN SMITH, Case No.
9 3:22-cr-00078-1, that said proceedings in connection with
10 the hearing were reduced to typewritten form by me, and that
11 the foregoing transcript (pages 1 through 35) is a true and
12 accurate record of said proceedings.

13 This the 19th day of December, 2024.

14
15 /s/ Deborah K. Watson
16 DEBORAH K. WATSON, RPR, CRR
17 Official Court Reporter
18
19
20
21
22
23
24
25